

Meeting Minutes  
Construction Underground Economy Advisory Committee  
December 18, 2013  
Tukwila, WA

Attendees:

Jim Charest, Kerry Cox, Ron Dahl, Don DeMulling, Mike Foley, Greg Gales, Kathleen Garrity, Tony Griego, Stan Harris, Neil Hartman, Joe Kendo, Bob Korth, Tom Kwieciak, Mark Martinez, Melissa McBride, Ni McMullin, Teresa Mosqueda, Dave Myers, Doric Olson, Alan Paja, Shari Purves-Reiter, Evelyn Shapiro, Dean Simpson, Elizabeth Smith, Gary Smith, Josh Swanson, Allen Thurston, Terry Tilton, Una Wiley

Agenda Item	Discussion
Opening Remarks Introductions	<p><b>Allen Thurston – L&amp;I</b></p> <ul style="list-style-type: none"> <li>Housekeeping items, restrooms, evacuation, earthquake, rules of engagement, electronic devices silenced</li> <li>Safety Topic (Tony Griego): Using sunglasses for winter driving.</li> </ul>
Review of 11/14/13 Meeting	<p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>Review of the agenda. Introductions around the table. Review of the last six months of meetings: discussed problems, bucketed them into similar groups, discussed short term and long term solutions. Determined that committee should focus on quick wins. Since then we've worked with internal staff and reviewed solutions for what is possible to implement with current resources. Some items we've identified as so good that we've already started working on them. Other solutions we would like to discuss further. We've put together a document with planned and proposed items and our interested in your feedback. There may be some items where we will ask for future participation from stakeholders. This will essentially be the document we work from moving forward</li> </ul> <p><b>Allen Thurston – L&amp;I</b></p> <ul style="list-style-type: none"> <li>Moving forward how often do we plan to meet?</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>Asks for input on how often the group would like to meet: Quarterly or Semiannual?</li> </ul> <p><b>Dave Myers – Washington State Building &amp; Construction Trades Council</b></p> <ul style="list-style-type: none"> <li>Is 3 months enough time for significant change?</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>I think we'll have started work, but not have completed works. Maybe the first check in is at four months?</li> </ul>

	<p><b>Dave Myers – Washington State Building &amp; Construction Trades Council</b></p> <ul style="list-style-type: none"> <li>• Are you proposing an actual sit down or just a project report out?</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• I could do either.</li> </ul> <p><b>Kerry Cox – National Federation of Independent Business</b></p> <ul style="list-style-type: none"> <li>• Would April be enough?</li> </ul> <p><b>Allen Thurston – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• That would help.</li> </ul> <p>Next meeting scheduled for 4/15/14 at 1:00pm</p>
Review of 6 Month Document –Problem W section: “Misclassification of independent contractors”	<p><b>Allen Thurston – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• Internal Independent Contractor training is scheduled for January and February for L&amp;I auditors and will expand to Employer Services. Training is also being given in Contractor Training days.</li> </ul> <p><b>Doric Olson – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• Intent is to have everybody on the same page both internally and externally.</li> </ul> <p><b>Gary Smith – Independent Business Association</b></p> <ul style="list-style-type: none"> <li>• Would appreciate information on how court decisions and case law differ between L&amp;I and ESD.</li> </ul> <p><b>Dave Myers – Washington State Building &amp; Construction Trades Council</b></p> <ul style="list-style-type: none"> <li>• Question about working with the counties. Counties have a lot of autonomy. Thinks developing a relationship would be important.</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• Some solutions address multiple problems. The next item for discussion touches on strengthening the relationship with local WABO chapters.</li> </ul> <p><b>Dave Myers – Washington State Building &amp; Construction Trades Council</b></p> <ul style="list-style-type: none"> <li>• Great.</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• We are hearing that our auditors need to be consistent in how they apply independent contractor laws. We are working everybody go through independent contractor training using the IC guide. That info is available on our website.</li> </ul> <p><b>Gary Smith – Independent Business Association</b></p> <ul style="list-style-type: none"> <li>• When you are doing this training make it clear that this is the L&amp;I version based on their case law.</li> </ul> <p><b>Allen Thurston – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• We do differentiate between IRS.</li> </ul>

	<p><b>Kerry Cox – National Federation of Independent Business</b></p> <ul style="list-style-type: none"> <li>• Points out the importance of consistency in applying laws.</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• We are working towards a direction.</li> </ul> <p><b>Doric Olson – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• We got everybody in the same room.</li> </ul> <p><b>Shari Purves-Reiter – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• When dealing with IRS data, there are a lot of rules.</li> </ul> <p><b>Gary Smith – Independent Business Association</b></p> <ul style="list-style-type: none"> <li>• Do you get the 941 information from the IRS?</li> </ul> <p><b>Shari Purves-Reiter – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• We can get any information we want. We just have to ask for it.</li> </ul> <p><b>Gary Smith – Independent Business Association</b></p> <ul style="list-style-type: none"> <li>• That’s a critical piece of information.</li> </ul>
Problem M section: “Professional work being done by people who aren’t licensed to do that type of work”	<p><b>Gary Smith – Independent Business Association</b></p> <ul style="list-style-type: none"> <li>• You should get building permit entities to attach your information to the permit. That will get more people to read it.</li> </ul> <p><b>Alan Paja –Pacific Northwest Regional Council of Carpenters</b></p> <ul style="list-style-type: none"> <li>• Unfortunately with the underground economy they’re not often getting permits.</li> </ul> <p><b>Dave Myers – Washington State Building &amp; Construction Trades Council</b></p> <ul style="list-style-type: none"> <li>• Contractors will be aware of WABO participation. It raises awareness.</li> </ul> <p><b>Teresa Mosqueda – Washington State Labor Council</b></p> <ul style="list-style-type: none"> <li>• You’ve identified items that need implementation. Could you include areas that received voting? It might be helpful to have information on items not touched upon.</li> </ul> <p><b>Shari Purves-Reiter – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• This isn’t a final report. It’s a report on what we are working on.</li> </ul> <p><b>Teresa Mosqueda – Washington State Labor Council</b></p> <ul style="list-style-type: none"> <li>• Maybe we should change the name to the 6 month plan.</li> </ul> <p><b>Dean Simpson – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• We currently have some relationship with WABO.</li> </ul>
Problem Y section: “Lack of higher consequences for repeated incidences of non-compliance”	<p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• (Elizabeth demonstrates Verify app). The next phase of the app allows one touch to make a referral.</li> </ul>

	<ul style="list-style-type: none"> <li>On the second bullet, it became clear that in a number of our compliance programs we have tools that we aren't using or unclear rules of when and how to use them. Some programs don't have the tools they need. The other questions is "Are the consequences effective?" This is attached to the agency goal group. Starting with Construction Compliance we are doing an analysis. What are the tools we have? What are we not using? Let's develop the criteria and standard work for the processes. We recently has a kaizen or process improvement event reworking our Stop Work Order process. We will be piloting the new process in February.</li> </ul> <p><b>Doric Olson – L&amp;I</b></p> <ul style="list-style-type: none"> <li>We actually did a simulated test of the process and it was complete in under four hours.</li> </ul> <p><b>Tom Kwieceiak – Building Industry Association of Washington</b></p> <ul style="list-style-type: none"> <li>What are the things you are looking for?</li> </ul> <p><b>Doric Olson – L&amp;I</b></p> <ul style="list-style-type: none"> <li>Don't have workers' comp. Repeat violator. Doing construction work. Construction contractor not working on their own property. Don't have volunteers.</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>We don't want to stop Dave from working on his own property with his brother.</li> </ul> <p><b>Tom Kwieceiak – Building Industry Association of Washington</b></p> <ul style="list-style-type: none"> <li>This would get the attention of general contractors.</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>But we won't do it if it harms a consumer or creates a safety issue. We don't want someone being left without a roof.</li> </ul> <p><b>Dean Simpson – L&amp;I</b></p> <ul style="list-style-type: none"> <li>Also looking at out of state business. Would proceed on the stop work order.</li> </ul> <p><b>Don DeMulling</b></p> <ul style="list-style-type: none"> <li>Would that automatically be a referral if they don't have a contractor registration?</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>Yes.</li> </ul> <p><b>Dean Simpson – L&amp;I</b></p> <ul style="list-style-type: none"> <li>There are two types of stop work orders: workers' comp and electrical.</li> </ul> <p><b>Dave Myers – Washington State Building &amp; Construction Trades Council</b></p> <ul style="list-style-type: none"> <li>The five point compliancy test shows no action.</li> </ul> <p><b>Gary Smith – Independent Business Association</b></p> <ul style="list-style-type: none"> <li>They fixed that. It will show on the app. Getting honest contractors to hand out materials to consumers to educate on what to look for. Use contractors for outreach</li> </ul>
--	--

	<p>when they are in the consumer's home.</p> <p><b>Allen Thurston – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• We are doing work in home shows with consumers.</li> </ul> <p><b>Shari Purves-Reiter – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• We've handed out contractor cards for using their registration as a marketing tool.</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• There will be an agency committee that will review program work and guide. Successorship is an example of something that can't be solved by one program. It needs enterprise level action.</li> </ul> <p><b>Kerry Cox – National Federation of Independent Business</b></p> <ul style="list-style-type: none"> <li>• If an electrician loses registration it doesn't get renewed. What will the program be doing differently to them now? Do other programs not have this escalation?</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• What we've found is that statutes are in different places. Some have escalation, but others the law is unclear. Each area needs to look at themselves.</li> </ul> <p><b>Kerry Cox – National Federation of Independent Business</b></p> <ul style="list-style-type: none"> <li>• There may be some benefit in looking to staff for input.</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• Absolutely.</li> </ul> <p><b>Dean Simpson – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• The difference between contractors and electrical is contractors are registration and electrical is licensing.</li> </ul>
Problem section K: "Processes for filing complaints takes too long and lacks feedback loop"	<p><b>Shari Purves-Reiter – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• This is an area we are looking for possible stakeholder involvement. Create one web portal for construction. Report once the referrals are made internally. Looking for volunteers. One team will triage complaints and provide a rollup for complaints.</li> </ul> <p><b>Dave Myers – Washington State Building &amp; Construction Trades Council</b></p> <ul style="list-style-type: none"> <li>• Do we have any benchmarks on process time now?</li> </ul> <p><b>Shari Purves-Reiter – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• It depends on where the complaint is made.</li> </ul> <p><b>Doric Olson – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• The answer is yes and no.</li> </ul> <p><b>Dave Myers – Washington State Building &amp; Construction Trades Council</b></p> <ul style="list-style-type: none"> <li>• We have an interest in inspectors getting to the jobsite.</li> </ul>

	<p><b>Mike Foley – Washington State Building &amp; Construction Trades Council</b></p> <ul style="list-style-type: none"> <li>• Or send in a photo.</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• It's difficult to get a prosecution on a photo.</li> </ul> <p><b>Gary Smith – Independent Business Association</b></p> <ul style="list-style-type: none"> <li>• What do you do with that?</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• DTO sends that information into a supervisor. An inspector tries to get out the same day. It's a high priority.</li> </ul> <p><b>Shari Purves-Reiter – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• It depends on how the referral is made.</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• Safety works similar.</li> </ul> <p><b>Alan Paja – Pacific Northwest Regional Council of Carpenters</b></p> <ul style="list-style-type: none"> <li>• If it goes to 1-800-4BE-SAFE they'll get out in a few hours.</li> </ul> <p><b>Dave Myers – Washington State Building &amp; Construction Trades Council</b></p> <ul style="list-style-type: none"> <li>• Need to improve timeliness of inspector response.</li> </ul> <p><b>Shari Purves-Reiter – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• First we need to focus on gathering data. That way we can accurately identify our needs and possibly make a case for more FTEs.</li> </ul>
Problem Section E: "Homeowners using unregistered contractors"	<p><b>Kerry Cox – National Federation of Independent Business</b></p> <ul style="list-style-type: none"> <li>• Will there be any compliance sweeps on the east side (of the state)?</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• Absolutely. Yakima, Walla Walla.</li> </ul> <p><b>Dave Myers – Washington State Building &amp; Construction Trades Council</b></p> <ul style="list-style-type: none"> <li>• Encourage inspectors to gather information at home shows?</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• Yes.</li> </ul> <p><b>Shari Purves-Reiter – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• I do want to point out that we already do use Angie's List for detection purposes and they are responsive.</li> </ul>
Problem Section AB: "Certified payroll process is untimely and impractical", <i>later revised to "Improve understanding and compliance with Prevailing Wage laws"</i>	<p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• We are working with the State Auditor's Office (Shari Purves-Reiter lead) and will have webinars eventually. The Prevailing Wage internet information is inadequate for customer needs. The priority is to take a comprehensive look at that information.</li> </ul>

	<p>Another item we would need input on is providing training to L&amp;I staff on real world construction. Developing standard work for Prevailing Wage field investigation.</p> <p><b>Dave Myers – Washington State Building and Construction Trades Council</b></p> <ul style="list-style-type: none"> <li>• The title doesn't necessarily match up with the solutions. It may need some reworking.</li> </ul> <p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• More like customer usability and compliance.</li> </ul> <p><b>Don DeMulling</b></p> <ul style="list-style-type: none"> <li>• For outreach, maybe suggest that it's in their contract at the time of payment they require submission of certified payroll.</li> </ul> <p><b>Evelyn Shapiro – National Construction Alliance</b></p> <ul style="list-style-type: none"> <li>• Third party complaints. There should be some quick technical fixes.</li> </ul>
Next Steps & Closing	<p><b>Elizabeth Smith – L&amp;I</b></p> <ul style="list-style-type: none"> <li>• Thank you everybody for participation. Next steps are to finish the Executive Summary document.</li> <li>• Next meeting scheduled for 1-3:00pm on April 15<sup>th</sup>, 2014. Location is room 304 at the L&amp;I Town Center 3 building. Invitations to follow.</li> </ul>